

***NATIONAL MARINE FISHERIES SERVICE INSTRUCTION 30-102-03
SEPTEMBER 26, 1995***

***Administration and Operations
Regulatory Guidance***

***OUTLINES OF DECISION AND TRANSMITTAL MEMOS AND MODEL
CLASSIFICATION SECTIONS FOR REGULATIONS***

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SUMMARY OF REVISIONS:

Signed _____
[Approving Authority name] Date
[Approving Authority title]

EXAMPLES

Outlines of Decision and Transmittal Memoranda
and
Model Classification Sections for Regulations

References the Delegation of Authority
approved by the Under Secretary on July 20, 1990

National Marine Fisheries Service
Silver Spring, Maryland 20910
Revised September 26, 1995

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1. Clearance of proposed rule for FMP/Amendment

MEMORANDUM FOR: Rolland A. Schmitt
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Clearance of Proposed Rule to Implement
(identify FMP/amendment)--DECISION MEMORANDUM

I request that you make determinations about the proposed rule, and send it to the Department under the statutory 95-day review schedule of the Magnuson Fishery Conservation and Management Act as soon as possible. This rule would implement (describe specific action/FMP/amendment).

BACKGROUND

RECOMMENDATION

I recommend that you concur in the attached determinations and sign the attached information memorandum to the Assistant Secretary and the information memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which requests a docket number and clearance to publish the proposed rule.

1. I concur. _____
Date

2. I do not concur. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number.

Attachment

DETERMINATIONS

NATIONAL ENVIRONMENTAL POLICY ACT

REGULATORY FLEXIBILITY ACT

COASTAL ZONE MANAGEMENT ACT

PAPERWORK REDUCTION ACT

ENDANGERED SPECIES ACT

MARINE MAMMAL PROTECTION ACT

EXECUTIVE ORDER 12866

EXECUTIVE ORDER 12612

(Attachment when an FMP/Amendment contains a definition of overfishing or an amendment to a definition of overfishing)

MEMORANDUM FOR: [Regional Director]

FROM: [Science Director]

SUBJECT: Certification of Overfishing Definition(s) in
[FMP or FMP Amendment]

The [Center] has reviewed the proposed overfishing definition(s) in [FMP or FMP Amendment] for compliance with guidelines provided in 50 CFR part 602, including consideration of whether the proposed definition(s) (1) has sufficient scientific merit, (2) is likely to result in effective Council action to protect the stock from closely approaching or reaching an overfished status, (3) provides a basis for objective measurement of the status of the stock against the definition, and (4) is operationally feasible. Based on that review:

- [] I certify, without reservation, that the subject overfishing definition(s) comply with the 50 CFR part 602 guidelines.
- [] I certify that the subject overfishing definition(s) comply with the 50 CFR part 602 guidelines, with reservations as discussed below.
- [] I do not certify that the subject overfishing definition(s) comply with the 50 CFR part 602 guidelines, for the reasons presented below.

Discussion [if any]

(The purpose of this memorandum is to inform the Assistant Secretary for Oceans and Atmosphere that Secretarial review of an FMP/FMP amendment (or regulatory amendment) has begun. This memorandum is a simple and brief transmittal. The background information contained in the Regional Director/Office Director's Decision Memorandum identifies issues of controversy and political sensitivity, if any. However, the proposed rule must be transmitted to and cleared by the Assistant General Counsel for Legislation and Regulation, Department of Commerce, before it can be published in the Federal Register.)

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Proposed Rule that would Implement
(identify FMP/FMP amendment)
--INFORMATION MEMORANDUM

The (name the Council) has submitted a (CONTROVERSIAL or NON-CONTROVERSIAL) (FMP/FMP amendment-identify) that is sufficient in scope and form to begin the process of seeking public comment on the proposed amendment and related proposed rule (attached). Also attached is the Regional Director's Decision Memorandum, which provides information on this proposed action. Day 1 of Secretarial review was initiated on (provide date). Pursuant to the procedures concerning proposed FMP amendments, I have transmitted the proposed rule to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, for clearance to publish in the Federal Register.

Attachments

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

(Example of the transmittal of a proposed rule that is
not significant under RFA)

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Proposed Rule (Identify FMP/amendment)
--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. I have determined that the subject action complies with the Regulatory Flexibility Act and the Paperwork Reduction Act.

I have initially determined that this rulemaking will not have a significant economic impact on a substantial number of small entities. Please certify that this action is not significant by signing and sending the attached memorandum to the Small Business Administration.

This regulatory action is being processed under the 95-day accelerated review schedule in accordance with the Magnuson Fishery Conservation and Management Act.

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

The fishery management plan (amendment) that these regulations would implement is considered automatically approved unless disapproved in writing no later than day 95 (insert date).

Attachments

MEMORANDUM FOR: Jere W. Glover
Chief Counsel for Advocacy
Small Business Administration

FROM: Michael Levitt
Assistant General Counsel for
Legislation and Regulation

SUBJECT: Certification Under Section 605(b) of the
Regulatory Flexibility Act for the Proposed Rule
to Implement (FMP/amendment)

I certify that the attached proposed rule issued under authority of section 304(a) of the Magnuson Fishery Conservation and Management Act will not have a significant economic impact on a substantial number of small entities. The proposed rule would (describe the action).

(Summarize the effect of the rule on small entities and explain why it will not have a significant economic impact. One page is usually sufficient.)

Attachment

(Example of the transmittal of a proposed rule that is significant under RFA)

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Proposed Rule (Identify FMP/amendment)
--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. I have determined that the subject action complies with the Paperwork Reduction Act and the Regulatory Flexibility Act. An initial regulatory flexibility analysis indicating the proposed rule is expected to have a significant economic impact on a substantial number of small entities has been provided to the Small Business Administration.

This regulatory action is being processed under the 95-day accelerated review schedule in accordance with the Magnuson Fishery Conservation and Management Act.

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service, (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

The fishery management plan (amendment) that these regulations would implement is considered automatically approved unless disapproved in writing no later than day 95 (insert date).

Attachment

(Example of transmittal to SBA of a proposed action that is significant under RFA)

MEMORANDUM FOR: Jere W. Glover
Chief Counsel for Advocacy
Small Business Administration

FROM: Richard H. Schaefer
Director, Office of Fisheries
Conservation and Management

SUBJECT: Determination of Significant Regulations for the
Proposed Rule for (identify FMP/amendment)

In accordance with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), an initial analysis of the proposed regulations indicates the action could have a significant economic impact on a substantial number of small entities.

We have prepared an initial regulatory flexibility analysis (IRFA), as required by section 603(a) of the RFA. The requirements for an IRFA are satisfied by the attached regulatory impact review. The regulatory impact review is an analytical document used by the National Marine Fisheries Service to comply with the requirements of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the RFA, and E.O. 12866.

The regulations are being processed under the accelerated review schedule for plans or amendments required by the Magnuson Act. In order to satisfy the requirements of this schedule, I am requesting your comments by (fill in date of Day 54).

If you have any questions concerning the attached analysis, please contact George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service, (301) 713-2341.

Attachment

(A decision on a partial disapproval of an FMP or FMP amendment must occur on or after Day 1 and before the Notice of Availability is filed with the OFR. The Notice of Availability must not be filed with the OFR until a decision is made on the issue.)

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Partial Disapproval of Amendment
(number) to the (identify FMP) Based on a
Preliminary Evaluation; Clearance
of Proposed Rule to Implement Remaining Measures
of Amendment (number)--DECISION MEMORANDUM

I request that you concur in my disapproval of (identify those disapproved measures) in Amendment (number) to the (identify FMP) based on a preliminary evaluation of the amendment for determining whether it is consistent with the national standards for fishery conservation and management and sufficient in scope and substance to warrant Secretarial review. I also request that you make determinations about the proposed rule that would implement the remaining measures in Amendment (number) and send the rule to the Department of Commerce under the 95-day review schedule of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The issues and background information for this action are summarized in this memorandum and attachments.

BACKGROUND

(Identify the responsible Council(s), the measures proposed in the amendment, the objective(s) of the amendment, approval issues, controversial aspects, time-critical issues, Council minority report (if any); and summarize the specific measures recommended for partial disapproval and the basis for the recommended action.)

RECOMMENDATION

I recommend that you concur in my partial disapproval of Amendment (number) based on a preliminary evaluation of the amendment under the Magnuson Act (see attached). I also recommend that you concur in the attached determinations for this action under other Federal laws. I recommend that you (1) sign the attached Information Memorandum to the Assistant Secretary, and (2) sign the attached Information Memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which requests a docket number and clearance to publish the proposed rule.

1. I concur with the partial disapproval of Amendment (number).

Date

2. I do not concur with the partial disapproval of Amendment (number).

Date

3. I concur with the determinations and publication of the proposed rule.

Date

4. I do not concur with the determinations and publication of the proposed rule.

Date

Attachments (Basis for the Partial Disapproval, Determinations, draft letter to the Council)

DRAFTED BY: (Regional Reviewer), code, telephone number.

(A decision on a disapproval of an FMP or FMP amendment must occur on or after Day 1 and no later than filing the Notice of Availability with the OFR. The Notice of Availability must not be filed with the OFR until a decision is made on the issue. If the decision is for disapproval, the Notice of Availability must not be filed.)

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Disapproval of Amendment (number) to the
(identify FMP) Based on a Preliminary
Evaluation--DECISION MEMORANDUM

I request that you concur in my disapproval of Amendment (number) to the (identify FMP) based on a preliminary evaluation of the amendment for determining whether it is consistent with the national standards for fishery conservation and management and sufficient in scope and substance to warrant Secretarial review. The issues and background information for this action are summarized in this memorandum and attachments.

BACKGROUND

(Identify the responsible Council(s), the objective(s) of the amendment, measures recommended for disapproval, controversial aspects, time-critical issues, Council minority report (if any); and summarize the basis of the recommendation for disapproval.)

RECOMMENDATION

I recommend that you concur in my disapproval of Amendment (number) based on a preliminary evaluation of the amendment under the Magnuson Act (see attached). I recommend that you sign the attached Information Memorandum to the Assistant Secretary.

1. I concur. _____
Date
2. I do not concur. _____
Date

Attachments (Basis for the Disapproval, Determinations, draft letter to the Council)

DRAFTED BY: (Regional Reviewer), code, telephone number.

2. Approval of final rule for FMP/Amendment

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Approval of Final Rule to Implement (identify
FMP/amendment) --DECISION MEMORANDUM

I intend, with your concurrence, to approve (describe specific
action/FMP/amendment and controversial issues, if any).

BACKGROUND

CERTIFICATION

I certify the FMP (amendment) to be consistent with the national
standards and other provisions of the Magnuson Fishery
Conservation and Management Act and other applicable laws.
Determinations supporting this finding are attached.

RECOMMENDATIONS

I recommend that you (1) concur in the approval of (identify
FMP/amendment), and (2) sign the attached memorandum to the
Assistant General Counsel for Legislation and Regulation,
Department of Commerce, which forwards this rule.

1. I concur. _____
Date

2. I do not concur and my delegation of authority is hereby
rescinded for this action. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number.

DETERMINATIONS

NATIONAL ENVIRONMENTAL POLICY ACT

REGULATORY FLEXIBILITY ACT

COASTAL ZONE MANAGEMENT ACT

PAPERWORK REDUCTION ACT

ENDANGERED SPECIES ACT

MARINE MAMMAL PROTECTION ACT

ADMINISTRATIVE PROCEDURE ACT

EXECUTIVE ORDER 12866

EXECUTIVE ORDER 12612

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Final Rule (Identify FMP/amendment)
--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. I have determined that the subject action complies with the Regulatory Flexibility Act and the Paperwork Reduction Act.

This regulatory action is being processed under the 95-day accelerated review schedule in accordance with the Magnuson Fishery Conservation and Management Act.

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

This final rule has been sent to NOAA for concurrent review.

Attachment

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Final Rule (identify FMP/amendment)
--DECISION MEMORANDUM

Attached for your review is the subject (NON-CONTROVERSIAL or CONTROVERSIAL) final rule. It is being forwarded under the procedures for NOAA/DOC clearance of regulatory actions.

This rule would implement (describe; if the action is controversial or politically sensitive, explain the issues). The subject amendment has been approved and this final rule would give effect to that decision. Attached is the Regional Director's Decision Memorandum, which provides information on this action.

This final rule has been sent to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, for concurrent review.

Cleared by NOAA General Counsel _____
Date _____

Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

Date

Concur

Do Not Concur

Attachments

MEMORANDUM FOR: Donna Wieting
Acting Director, Ecology and
Conservation Office

FROM: Rolland A. Schmitten

SUBJECT: Transmittal of the Environmental Assessment
for (identify FMP/amendment) --DECISION
MEMORANDUM

Based on the subject environmental assessment, I have determined that no significant environmental impacts will result from the proposed action. I request your concurrence in this determination by signing below. Please return this memorandum for our files.

1. I concur. _____
Date
2. I do not concur. _____
Date

Attachments

To All Interested Government Agencies and Public Groups:

Under the National Environmental Policy Act, an environmental review has been performed on the following action.

TITLE: Environmental Assessment of (identify FMP/amendment)
LOCATION: (Identify)
SUMMARY: (Describe the action)
RESPONSIBLE (Name) *
OFFICIAL: (Title)
National Marine Fisheries Service
(Address)
Phone: (Number)

The environmental review process led us to conclude that this action will not have a significant impact on the environment. Therefore, an environmental impact statement was not prepared. A copy of the finding of no significant impact, including the environmental assessment, is enclosed for your information. Also, please send one copy of your comment to me in Room 5805, OP/SP, U.S. Department of Commerce, Washington, D.C. 20230.

Sincerely,

Donna Wieting
Acting Director, Office of Ecology
and Conservation

Enclosure

*The Responsible Official is designated by the appropriate programmatic authority as the contact point. The purpose of identifying a Responsible Official is to provide the public with a point of contact with "The person with primary responsibility to determine the need for and ensure preparation of any environmental document" (NAO 216-6, section 4.01p). The Responsible Official could be a Regional Director, Regional Management Chief, Headquarters Office Director, Headquarters Division Chief, or other appropriate individual.

3. Approval of emergency rule

NOTE: For NON-CONTROVERSIAL emergency actions see pages 26-28.

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Approval of an Emergency Rule to (identify the
action)--DECISION MEMORANDUM

I request your approval of an emergency action under authority of section 305(c) of the Magnuson Fishery Conservation and Management Act. The (name) Council requested emergency action, which has controversial aspects. (Describe the economic, ecological, social, or political impacts.)

BACKGROUND

CERTIFICATION

I certify that this emergency rule is consistent with the national standards and other provisions of the Magnuson Fishery Conservation and Management Act and other applicable laws. Determinations supporting this finding are attached.

RECOMMENDATION

I recommend that you approve this emergency action, sign and send the decision memorandum to the Under Secretary with the attached information memorandum to the Secretary, and sign the attached transmittal to the Assistant General Counsel for Legislation and Regulation of the Department of Commerce.

1. I concur. _____
Date

2. I do not concur. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number.

Attachment

DETERMINATIONS

(Note: Additional background may be added here, if necessary, to provide extensive details, tables, etc.)

ISSUE

APPROPRIATENESS OF EMERGENCY ACTION

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

This rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act.

NATIONAL ENVIRONMENTAL POLICY ACT

REGULATORY FLEXIBILITY ACT

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is not required to be issued with prior notice and opportunity for prior public comment.

COASTAL ZONE MANAGEMENT ACT

PAPERWORK REDUCTION ACT

ENDANGERED SPECIES ACT

MARINE MAMMAL PROTECTION ACT

ADMINISTRATIVE PROCEDURE ACT

The reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of sections 553(b) and (d) of the Administrative Procedure Act.

EXECUTIVE ORDER 12866

EXECUTIVE ORDER 12612

NOTE: This decision memorandum is used for CONTROVERSIAL emergency actions.

MEMORANDUM FOR: D. James Baker
Under Secretary for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Approval of an Emergency Rule to (identify action)--DECISION MEMORANDUM

With your concurrence, I intend to approve an emergency rule, as requested by (name of Council), to (briefly describe the action). This action may be controversial and, accordingly, the Secretary should be advised before it is implemented. Please sign the attached Decision Memorandum to the Secretary and indicate that you concur by signing below.

Cleared by NOAA General Counsel

_____ Date _____

D. James Baker
Under Secretary
for Oceans and Atmosphere

_____ Date _____

_____ Concur _____

_____ Do Not Concur _____

Attachment

DRAFTED BY: (Regional Reviewer), code, telephone number.

NOTE: This information memorandum is used only for CONTROVERSIAL emergency actions.

INFORMATION MEMORANDUM FOR THE SECRETARY

From: D. James Baker
Under Secretary for Oceans and Atmosphere

Subject: Advisement of Intention to Issue an Emergency
Rule to (describe action)

Issue

To advise you of the intention to issue a controversial emergency action affecting the (identify fishery).

Background

(Identify the Council requesting emergency action and the affected industry (e.g., commercial or recreational, trawl or longline, geographical area).)

Under Departmental Organization Order 10-15, the Secretary shall be advised before a controversial emergency action is taken under section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

(Describe the intended action and the urgency that requires use of emergency authority. Describe the controversial aspects. Summarize applicable economic, ecological, social, or political impacts.)

NOTE: For CONTROVERSIAL emergency actions, see pages 22-25.

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Approval of an Emergency Rule to (identify the
action)--DECISION MEMORANDUM

I request your approval of an emergency action under authority of section 305(c) of the Magnuson Fishery Conservation and Management Act. The [name] Council requested emergency action under (identify the FMP) to (describe the action, should not contain controversial aspects).

BACKGROUND

CERTIFICATION

I certify that this emergency rule is consistent with the national standards and other provisions of the Magnuson Fishery Conservation and Management Act and other applicable laws. Determinations supporting this finding are attached.

RECOMMENDATION

I recommend that you approve this emergency action, sign and send the information memorandum to the Assistant Secretary and sign the attached information memorandum to the Assistant General Counsel for Legislation and Regulation of the Department of Commerce.

1. I concur. _____
Date
2. I do not concur. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number.

Attachment

DETERMINATIONS

(Note: Additional background may be added here, if necessary, to provide extensive details, tables, etc.)

ISSUE

APPROPRIATENESS OF EMERGENCY ACTION

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

This rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act.

NATIONAL ENVIRONMENTAL POLICY ACT

REGULATORY FLEXIBILITY ACT

This rule is exempt from the procedures of the Regulatory Flexibility Act, because it is not required to be issued with prior notice and opportunity for prior public comment.

COASTAL ZONE MANAGEMENT ACT

PAPERWORK REDUCTION ACT

ENDANGERED SPECIES ACT

MARINE MAMMAL PROTECTION ACT

ADMINISTRATIVE PROCEDURE ACT

The reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for comment upon, or to delay for 30 days the effective date of these emergency regulations, under the provisions of sections 553(b) and (d) of the Administrative Procedure Act.

EXECUTIVE ORDER 12866

EXECUTIVE ORDER 12612

NOTE: This information memorandum is used for NON-CONTROVERSIAL emergency actions.

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Emergency Rule to (identify action)--
INFORMATION MEMORANDUM

This is to inform you that I intend to approve a NON-CONTROVERSIAL emergency rule that (describe briefly). (Identify the Council that recommended the emergency action and the FMP.)

Attachment

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of the rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Emergency Rule (identify)
--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. This emergency rule is exempt from the requirements of the Regulatory Flexibility Act because it is issued without opportunity for prior public comment. This rule does not contain a collection-of-information requirement and, therefore, is not subject to the provisions of the Paperwork Reduction Act.

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

This emergency rule has been sent to NOAA for concurrent review.

Attachments

MEMORANDUM FOR: Donna Wieting
Acting Director, Ecology and
Conservation Office

FROM: Rolland A. Schmitten

SUBJECT: Transmittal of the Environmental Assessment for
an Emergency Rule to (describe)--DECISION
MEMORANDUM

Based on the subject environmental assessment, I have determined that no significant environmental impacts will result from the proposed action. I request your concurrence in this determination by signing below. Please return this memorandum for our files.

1. I concur. _____ Date
2. I do not concur. _____ Date

Attachments

(See example of transmittal of EA for final rule on page 17.)

4. Clearance of proposed rule for regulatory amendment

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Clearance of a Proposed Rule to (identify
action) -- DECISION MEMORANDUM

I request that you make determinations about the proposed rule and transmit the proposed rule to the Department of Commerce for clearance to publish in the Federal Register.

BACKGROUND

RECOMMENDATION

I recommend that you concur in the attached determinations and sign the attached information memorandum to the Assistant Secretary and the information memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which requests a docket number and clearance to publish the proposed rule.

1. I concur. _____
Date
2. I do not concur. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number.

Attachment

(Note: If the Regional Director believes the action will be controversial or politically sensitive (e.g., may generate contacts with DOC/NOAA officials, telephone calls, correspondence, visits by industry/persons, inquiries by Members of Congress, etc.), prepare an Information Memorandum to NOAA (see page 4).

DETERMINATIONS

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

NATIONAL ENVIRONMENTAL POLICY ACT

REGULATORY FLEXIBILITY ACT

COASTAL ZONE MANAGEMENT ACT

PAPERWORK REDUCTION ACT

ENDANGERED SPECIES ACT

MARINE MAMMAL PROTECTION ACT

EXECUTIVE ORDER 12866

EXECUTIVE ORDER 12612

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Proposed Rule (Identify)--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. I have determined that the subject action complies with the Regulatory Flexibility Act and the Paperwork Reduction Act.

(Option 1) I have initially determined that this rulemaking will not have a significant economic impact on a substantial number of small entities. Please certify that this action is not significant by signing and sending the attached memorandum to the Small Business Administration.

(Option 2) An initial regulatory flexibility analysis indicating the proposed rule is expected to have a significant economic impact on a substantial number of small entities has been provided to the Small Business Administration.

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

Attachment (s)

MEMORANDUM FOR: Jere W. Glover
Chief Counsel for Advocacy
Small Business Administration

FROM: Michael Levitt
Assistant General Counsel for
Legislation and Regulation

SUBJECT: Certification Under Section 605(b) of the
Regulatory Flexibility Act for the Proposed Rule
to (identify)

I certify that the attached proposed rule issued under the authority of the Magnuson Fishery Conservation and Management Act will not have a significant economic impact on a substantial number of small entities. The proposed rule would (describe the action).

(Summarize the effect of the rule on small entities and explain why it will not have a significant economic impact. One page is usually sufficient.)

Attachment

(Note: If the action is significant under the Regulatory Flexibility Act, see example on page 9.)

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Proposed Rule that would (identify action)
--INFORMATION MEMORANDUM

The (name the Council) has submitted a (CONTROVERSIAL or NON-CONTROVERSIAL) proposed action that (describe briefly, identify the FMP.) The Regional Director's Decision Memorandum, which provides information on this proposed action, and the related proposed rule are attached. (Include controversial or politically sensitive issues, if any.)

There are no statutory deadlines for this action. I have transmitted the proposed rule to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, for clearance to publish in the Federal Register.

Attachments

5. Approval of final rule for regulatory amendment

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Approval of a Final Rule to Implement (identify)
--DECISION MEMORANDUM

I request that you approve and make determinations about the final rule to implement (describe).

BACKGROUND

CERTIFICATION

I have determined that the final rule is consistent with the national standards and other provisions of the Magnuson Fishery Conservation and Management Act and other applicable laws. Determinations supporting this finding are attached.

RECOMMENDATION

I recommend that you (1) concur in the approval of the final rule, (2) sign the decision memorandum to the Assistant Secretary and (3) sign the information memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which forwards the final rule.

1. I concur. _____
Date

2. I do not concur. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number

Note: Some decisions that would be implemented by proposed/final rule have been further delegated to a Regional Director under specific FMPs.)

DETERMINATIONS

NATIONAL ENVIRONMENTAL POLICY ACT

REGULATORY FLEXIBILITY ACT

COASTAL ZONE MANAGEMENT ACT

PAPERWORK REDUCTION ACT

ENDANGERED SPECIES ACT

MARINE MAMMAL PROTECTION ACT

ADMINISTRATIVE PROCEDURE ACT

EXECUTIVE ORDER 12866

EXECUTIVE ORDER 12612

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Final Rule; Regulatory Amendment to
(identify action)--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. I have determined that the subject action complies with the Paperwork Reduction Act and Regulatory Flexibility Act. You previously certified to the Small Business Administration that this rulemaking will not have a significant economic impact on a substantial number of small entities (or, the Small Business Administration has been advised that this rule is significant under the Regulatory Flexibility Act).

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

This final rule has been sent to NOAA for concurrent review.

Attachment

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Final Rule; Regulatory Amendment to Implement
(identify)--DECISION MEMORANDUM

Attached for your review is the subject (NON-CONTROVERSIAL or CONTROVERSIAL) final rule. It is being forwarded under the procedures for NOAA/DOC clearance of regulatory actions.

This rule would implement (describe; if controversial, identify the issues). The subject regulatory amendment has been approved and this final rule would give effect to that decision. Attached is the Regional Director's Decision Memorandum, which provides information on this action (including controversial or politically sensitive issues, if any).

This final rule has been sent to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, for concurrent review.

Cleared by NOAA General Counsel _____
Date

Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

Date

Concur

Do Not Concur

Attachments

6. Approval of interim final rule

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Approval of an Interim Final Rule to
(identify action)--DECISION MEMORANDUM

I request that you approve and make determinations about the interim final rule to (describe).

BACKGROUND

CERTIFICATION

I have determined that the interim final rule is consistent with the national standards and other provisions of the Magnuson Fishery Conservation and Management Act and other applicable laws. Determinations supporting this finding are attached.

RECOMMENDATION

I recommend that you (1) concur in the approval of the interim final rule, (2) sign the decision memorandum to the Assistant Secretary, and (3) sign the information memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which forwards the interim final rule.

1. I concur. _____
Date

2. I do not concur. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number

Attachment

DETERMINATIONS

NATIONAL ENVIRONMENTAL POLICY ACT

REGULATORY FLEXIBILITY ACT

This rule is exempt from the Regulatory Flexibility Act because it was not subject to prior notice and prior opportunity for public comment.

COASTAL ZONE MANAGEMENT ACT

PAPERWORK REDUCTION ACT

ENDANGERED SPECIES ACT

MARINE MAMMAL PROTECTION ACT

ADMINISTRATIVE PROCEDURE ACT

EXECUTIVE ORDER 12866

EXECUTIVE ORDER 12612

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Interim Final Rule to (identify action)
--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. I have determined that the subject action complies with the Paperwork Reduction Act. The rule is exempt from the Regulatory Flexibility Act because it was not subject to prior notice and prior opportunity for public comment.

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him by telephone when you have cleared the regulatory action.

This final rule has been sent to NOAA for concurrent review.

Attachment

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Interim Final Rule to (identify action)
--DECISION MEMORANDUM

Attached for your review is the subject (CONTROVERSIAL or NON-CONTROVERSIAL) interim final rule submitted by the (name the Council) in accordance with the (identify the FMP). Attached is the Regional Director's Decision Memorandum, which provides information on this action (including controversial or politically sensitive issues, if any). There are no statutory deadlines for this action. It is being forwarded under the procedures for NOAA/DOC clearance of regulatory actions.

This final rule has been sent to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, for concurrent review.

Cleared by NOAA General Counsel _____
Date

_____ Douglas K. Hall Assistant Secretary for Oceans and Atmosphere	_____ Date	_____ Concur	_____ Do Not Concur
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Attachments

7. Publication of proposed specifications

(Note: Terminology may vary. This example is a proposed annual specification for public comment. It will not be codified.)

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Publication of (insert year)
Proposed Specifications for (identify)
--DECISION MEMORANDUM

I request that you concur in the publication of the (insert year)
proposed specifications for (identify).

BACKGROUND

RECOMMENDATION

I recommend that you (1) concur in the publication of these
proposed specifications and (2) sign the attached information
memorandum to the Assistant General Counsel for Legislation and
Regulation, Department of Commerce, which requests a docket
number and clearance to publish these proposed specifications.

1. I concur. _____
Date

2. I do not concur. _____
Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number.

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitt

SUBJECT: Clearance of (insert year) Proposed
Specifications for (identify) -- INFORMATION
MEMORANDUM

In compliance with departmental review procedures for annual fishery specifications, I am attaching the subject regulatory action for your technical review. I have determined this action complies with the requirements of the (FMP) and its implementing regulations published at 50 CFR (insert).

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

Attachment

8. Approval of final specifications

(Note: Terminology may vary. This example is a non-codified final specification for the start of a fishing year.)

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Approval of the Final (insert year)
Specifications (identify)--DECISION MEMORANDUM

I request that you approve the (insert year) final specifications
(describe).

BACKGROUND

RECOMMENDATION

I recommend that you (1) concur in the approval of the (insert year) final specifications for (identify), (2) sign the information memorandum to the Assistant Secretary, and (3) sign the information memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which forwards these specifications.

1. I concur. _____ Date

2. I do not concur. _____ Date

Attachments

DRAFTED BY: (Regional Reviewer), code, telephone number.

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____
_____.

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Clearance of (year) Final Specifications for
(identify) -- INFORMATION MEMORANDUM

In compliance with departmental review procedures for annual fishery specifications, I am attaching the subject regulatory action for your technical review. I have determined this action complies with the requirements of the (FMP) and its implementing regulations published at 50 CFR (insert part number).

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

Attachment

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Specifications of Catch for (year)
(identify fishery)--INFORMATION MEMORANDUM

In accordance with procedures for annual specifications under the (identify FMP), the (identify Council) recommends catch limits for (year) for the (identify fishery). These specifications are NON-CONTROVERSIAL). Attached is the Regional Director's Decision Memorandum, which provides information on this action (including controversial or politically sensitive issues, if any).

Attachment

NOTE: Use this format for NON-CONTROVERSIAL specifications. If the final specifications are determined to be CONTROVERSIAL, use the Decision Memorandum format (see page 44).

9. Publication of inseason action

MEMORANDUM FOR: Richard H. Schaefer
Director, Office of Fisheries
Conservation and Management

FROM: (Name)
Regional Director

SUBJECT: Inseason (identify action)
--INFORMATION MEMORANDUM

The attached action would (describe).

Attachments

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]

FROM: [Regional Attorney]

RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

10. Technical Amendment

MEMORANDUM FOR: Richard H. Schaefer
Director, Office of Fisheries
Conservation and Management

FROM: (Name)
Regional Director

SUBJECT: Technical Amendment to 50 CFR (identify)
(clarifying or correcting) the Regulations for
(identify)

Attached is a technical amendment to (clarify or correct)
regulations implementing (identify FMP). This technical
amendment revises 50 CFR (identify) by (describe the change).
(If the change must be expedited, describe the reason for the
urgency.)

Attachments

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional Director]
FROM: [Regional Attorney]
RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: OGC - Michael Levitt
THROUGH: NOAA-GC - Jay Johnson
FROM: GCF - Margaret F. Hayes
SUBJECT: Clearance of a Final Rule, Technical Amendment
to the Regulations for (identify)

Attached is a final rule, technical amendment that (identify the action, could clarify or revise a final rule) in 50 CFR (identify). The rule does not make any substantive change in (identify). No aspect of this action is controversial and no change in operating practices in the fishery is required.

This technical amendment is issued under 50 CFR (identify). Because it makes only minor, non-substantive changes and does not change operating practices in the fishery, it is unnecessary under 5 U.S.C. 553(b)(B) to provide for prior public comment. There is good cause under 5 U.S.C. 553(d) not to delay the effective date of the technical amendment for 30 days.

Please inform George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service, (301) 713-2341, of the docket number when you have cleared the regulatory action.

Attachment

11. Advance notice of proposed rulemaking

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional (Office) Director

SUBJECT: Clearance of an Advance Notice of Proposed
Rulemaking to (identify action)--
DECISION MEMORANDUM

I request that you transmit the advance notice of proposed rulemaking to the Department of Commerce for clearance to publish in the Federal Register.

BACKGROUND

RECOMMENDATION

I recommend that you sign the attached information memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which requests a docket number and clearance to publish the advance notice of proposed rulemaking.

1. I concur. _____ Date
2. I do not concur. _____ Date

Attachments

DRAFTED BY: (Reviewer), code, telephone number.

(Note: If the Regional Director believes the action will be controversial (e.g., may generate contacts with DOC/NOAA officials, telephone calls, correspondence, visits by industry/persons, inquiries by Members of Congress, etc.), prepare an Information Memorandum to NOAA (see page 4).)

DATE

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional or Office Director]

FROM: [insert Attorney]

RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Advance Notice of Proposed Rulemaking
(Identify)--INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject regulatory action for your technical review. I have determined that the subject action complies with the Regulatory Flexibility Act and the Paperwork Reduction Act.

Any questions regarding this regulatory action should be directed to George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service, (301) 713-2341. Please advise him of the docket number by telephone when you have cleared the regulatory action.

Attachment

12. Notice of control date

MEMORANDUM FOR: Rolland A. Schmitten
Assistant Administrator
for Fisheries

FROM: (Name)
Regional Director

SUBJECT: Advance Notice of Proposed Rulemaking to
Establish a Control Date--DECISION MEMORANDUM

The (name) Fishery Management Council (Council) voted to establish a control date for the (identify fishery). The control date enables the Council to inform the industry that it is considering future action to control the number of participants in the fishery. It announces that anyone entering the fishery after the control date will not be assured of future access, should a management regime that limits the number of participants in the fishery be prepared and implemented. The Council requested that the control date be published in the Federal Register to provide timely notice to the industry.

BACKGROUND

RECOMMENDATION

I concur with the Council's recommendation and support publication of this advance notice of proposed rulemaking. I recommend that (1) you concur in this decision, (2) sign the attached information memorandum to the Assistant Secretary, and (3) sign the information memorandum to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, which forwards this action.

1. I concur. _____ Date

2. I do not concur. _____ Date

Attachments

DRAFTED BY: (Reviewer), code, telephone number

ATTORNEY WORK PRODUCT - CLOSE HOLD

MEMORANDUM FOR: [Regional or Office Director]

FROM: [Insert Attorney]

RE: [Identification of rule]

I have reviewed the subject rule and associated decision documents.

A Takings Implication Assessment (TIA) is attached:

[] yes [] no

No TIA was prepared: [] No effect on private property.

[] Exclusion because _____

[] Covered by generic TIA.

[] Magnuson Act proposed rule.

cc: GCF

MEMORANDUM FOR: Michael Levitt
Assistant General Counsel for
Legislation and Regulation - DOC

FROM: Rolland A. Schmitten

SUBJECT: Publication of an Advance Notice of Proposed
Rulemaking to Establish a Control Date--
INFORMATION MEMORANDUM

In compliance with Departmental Organization Order 10-6, I am attaching the subject advance notice of proposed rulemaking for your technical review. I have determined that the action is consistent with the requirements of the Magnuson Fishery Conservation and Management Act.

This notice does not impose any conservation and management measures, but is designed to discourage speculative entry into the (identify fishery). When the (name) Fishery Management Council prepares an amendment to the (identify FMP) to control fishery access or to limit fishing effort in relation to this control date, an analysis of specific economic and social effects will be prepared at that time.

Please inform George H. Darcy, Chief, Plans and Regulations Division, National Marine Fisheries Service, (301) 713-2341, of the docket number when you have cleared this action.

Attachment

MEMORANDUM FOR: Douglas K. Hall
Assistant Secretary
for Oceans and Atmosphere

FROM: Rolland A. Schmitten

SUBJECT: Publication of an Advance Notice of Proposed
Rulemaking to Establish a Control Date
--INFORMATION MEMORANDUM

The (name) Fishery Management Council has submitted a NON-CONTROVERSIAL advance notice of proposed rulemaking to establish a control date for the (identify) fishery. Attached is a copy of the Regional Director's Decision Memorandum, which provides information on this action. There are no statutory deadlines for this action; however, the control date will correspond to the date of publication in the Federal Register (or the specific date selected by the Council). I have transmitted this action to the Assistant General Counsel for Legislation and Regulation, Department of Commerce, for clearance to publish in the Federal Register.

Attachment

13. Examples of determination sections for
decision memos

DETERMINATIONS FOR A PROPOSED RULE

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

(Omit if the action is under Secretarial review because this determination has not been made.)

I have determined that this rule is necessary for conservation and management and is consistent with the Magnuson Act.

NATIONAL ENVIRONMENTAL POLICY ACT

Option 1. The Council (or NMFS) prepared a draft (supplemental) environmental impact statement for this action. (Summarize any measure(s) that takes a conservation risk.) A notice of availability was published (cite) inviting public comments.

Option 2. An environmental assessment has been prepared, which describes the impact on the human environment that would result from its implementation. (Summarize any measure(s) that takes a conservation risk.)

Option 3. This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NAO 216-6. A memorandum for the file has been prepared that sets forth the decision to use a categorical exclusion because the rule falls within the scope of alternatives addressed in the environmental assessment prepared for (identify) and implements only minor changes.

COASTAL ZONE MANAGEMENT ACT

The Council (or NMFS) determined that this action is consistent to the maximum extent practicable with the approved coastal management program of (identify states). This determination was submitted for review by the responsible State agency(ies) under section 307 of the Coastal Zone Management Act.

REGULATORY FLEXIBILITY ACT

Option 1. The Council (or NMFS) prepared an initial regulatory flexibility analysis as part of the regulatory impact review, which describes the impact this proposed rule would have on small entities, if adopted. (Summarize any controversial issues affecting the industry.) I recommend you initially determine that this rule could have a significant economic impact on a substantial number of small entities.

Option 2. I recommend that you determine that this rule would not have a significant economic impact on a substantial number of small entities.

PAPERWORK REDUCTION ACT

Option 1. This action does not contain a collection-of-information request for purposes of the Paperwork Reduction Act.

Option 2. This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. This collection-of-information requirement has been submitted to the Office of Management and Budget for approval.

ENDANGERED SPECIES ACT

Option 1. I determined that fishing activities conducted under this rule would not affect endangered and threatened species.

Option 2. (If an informal consultation or a formal section 7 consultation was done, indicate the date and the conclusion of the most recent consultation.)

MARINE MAMMAL PROTECTION ACT

Option 1. I have determined that fishing activities conducted under this rule will have no adverse impact on marine mammals.

Option 2. Adverse impacts resulting from fishing activities conducted under this rule are discussed in the EA (DEIS).

EXECUTIVE ORDER 12866

Option 1. Pursuant to the procedures established to implement section 6 of E.O. 12866, the Office of Management and Budget has determined that this proposed rule is not significant.

Option 2. Pursuant to the procedures established to implement Section 6 of E.O. 12866, the Office of Management and Budget has determined that this proposed rule is significant.

EXECUTIVE ORDER 12612

Option 1. This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

Option 2. (If there are substantial federalism concerns.) A federalism assessment was prepared for this action that addresses the principles, criteria, and requirements of E.O. 12612.

DETERMINATIONS FOR A FINAL RULE

MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT

(Omit for a final rule because this determination is made in the CERTIFICATION portion of the decision memorandum.)

NATIONAL ENVIRONMENTAL POLICY ACT

Option 1. A final [supplemental] environmental impact statement for this action was filed with the Environmental Protection Agency. (Summarize any measure(s) that takes a conservation risk.) A notice of availability was published (date, cite).

Option 2. An environmental assessment was prepared for this action. (Summarize any measure(s) that takes a conservation risk.) I recommend that you find that no significant impact on the human environment will result from its implementation.

Option 3. This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NAO 216-6. A memorandum for the file has been prepared that sets forth the decision to use a categorical exclusion because the rule falls within the scope of alternatives addressed in the environmental assessment prepared for (identify) and implements only minor changes.

COASTAL ZONE MANAGEMENT ACT

The Council (or NMFS) determined that this action is consistent to the maximum extent practicable with the approved coastal management program of (identify states). This determination was submitted for review by the responsible State agency(ies) under section 307 of the Coastal Zone Management Act. Because no response was received, state concurrence on consistency is inferred. (If a state does not concur, identify the state, its rationale, and subsequent NMFS response.)

REGULATORY FLEXIBILITY ACT

Option 1. The Council (or NMFS) prepared a final regulatory flexibility analysis as part of the regulatory impact review. (Summarize any controversial issues affecting the industry.)

Option 2. The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities.

PAPERWORK REDUCTION ACT

Option 1. This action does not contain a collection-of-information request for purposes of the Paperwork Reduction Act.

Option 2. This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number _____.

ENDANGERED SPECIES ACT

Option 1. I determined that fishing activities conducted under this rule would not affect endangered and threatened species.

Option 2. (If an informal consultation or a formal section 7 consultation was done, indicate the date and the conclusion.)

MARINE MAMMAL PROTECTION ACT

Option 1. I have determined that fishing activities conducted under this rule will have no adverse impact on marine mammals.

Option 2. Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EA [DEIS].

ADMINISTRATIVE PROCEDURE ACT

(If all or part of the 30-day period of delayed effectiveness is waived, explain the specific basis for the "good cause".)

EXECUTIVE ORDER 12866

Option 1. Pursuant to the procedures established to implement section 6 of E.O. 12866, the Office of Management and Budget has determined that this final rule is not significant.

Option 2. Pursuant to the procedures established to implement section 6 of E.O. 12866, the Office of Management and Budget has determined that this final rule is significant.

EXECUTIVE ORDER 12612

Option 1. This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

Option 2. A federalism assessment was prepared that concluded that implementation of the rule is consistent with the principles, criteria, and requirements of E.O. 12612.

14. Examples of classification sections for regulations

PROPOSED RULE

Classification

1. Opening paragraph. This paragraph may be used for proposed rules for an FMP [amendment] only. It reflects the fact that the NMFS has not yet determined that the FMP [amendment] meets the requirements of the Magnuson Act or other applicable laws.

"Section 304(a)(1)(D) of the Magnuson Act requires that regulations proposed by a Council be published within 15 days of receipt of the FMP [amendment] and regulations. At this time NMFS has not determined that the FMP [amendment] these rules would implement is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period."

2. NEPA statement.

A. If an EIS was prepared, briefly summarize the impacts. Insert one of the following:

"The Council (or NMFS) prepared a draft [supplemental] environmental impact statement for this FMP [amendment]; a notice of availability was published on _____, 19__ (___ FR ____). (Briefly summarize impacts.)"

"The Council (or NMFS) prepared a final [supplemental] environmental impact statement for this FMP [amendment]; a notice of availability was published on _____, 19__ (___ FR ____). (Briefly summarize impacts.)"

B. If an EA was prepared, no statement is needed, unless there are substantial associated issues. If there are substantial issues, insert the following:

"The Council (or NMFS) prepared an environmental assessment for this FMP [amendment] that discusses the impact on the environment as a result of this rule. (Briefly summarize impacts.) A copy of the environmental assessment is available from the Council (or NMFS) (see ADDRESSES)."

C. If a categorical exclusion is appropriate, no statement is required.

3. E.O. 12866 statement. This statement reflects OMB's determinations about proposed rules:

A. If the proposed rule is not significant:

"This proposed rule has been determined to be not significant for purposes of E.O. 12866."

B. If the proposed rule is significant:

"This proposed rule has been determined to be significant for purposes of E.O. 12866."

C. If the proposed rule is not subject to OMB review under E.O. 12866:

"This action is exempt from review under E.O. 12866."

4. RFA statement. No statement is required for a proposed rule where notice and comment is not required by law, but is being given voluntarily. For a proposed rule where notice and comment is required by law (e.g., APA, Magnuson Act 15-day rule), insert one of the following:

A. For a finding of significant impacts on "small entities:"

"The Council (or NMFS) prepared an initial regulatory flexibility analysis as part of the regulatory impact review, which describes the impact this proposed rule would have on small entities, if adopted. [Insert summary of analysis.] A copy of this analysis is available from the Council (or NMFS) (see ADDRESSES)."

B. For a finding of no significant impact on "small entities:"

"The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. [insert statement of reasons]. As a result, a regulatory flexibility analysis was not prepared."

5. PRA statement.

A. A statement is required if the rule contains a collection of information. Insert one of the following:

"This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. This collection-of-information requirement has been submitted to the Office of Management and Budget for approval." [Insert summary of requirements and burden.] Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

"This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number _____."

B. A statement is not required if there is no collection of information.

6. CZMA statement. There is no requirement for a statement for a proposed rule; however, determinations must be sent to the affected states.

7. E.O. 12612 statement. There is no requirement for a statement, unless there are substantial federalism concerns.

8. ESA statement. There is no requirement for a statement, unless there are significant associated issues. If necessary, insert one of the following:

"The Regional Director determined that fishing activities conducted under this rule would not affect endangered and threatened species under the Endangered Species Act.

"An informal consultation under the Endangered Species Act was concluded for [FMP/amendment] on [date]. As a result of the informal consultation, the Regional Director determined that fishing activities under this rule are not likely to affect adversely endangered or threatened species."

"A formal section 7 consultation under the Endangered Species Act was initiated for [FMP/amendment]. In a biological

opinion dated [date], the AA determined that fishing activities conducted under [FMP/amendment] and its implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat."

"A formal section 7 consultation under the Endangered Species Act was conducted with the U.S. Fish & Wildlife Service on the effects of [FMP/amendment] on the [species]. The biological opinion issued by the U.S. Fish & Wildlife Service dated [date] states that fishing activities conducted under [FMP/amendment] and its implementing regulations are not likely to jeopardize the continued existence of [species] or result in the destruction or adverse modification of critical habitat."

9. MMPA statement. There is no requirement for a statement, unless there are significant associated issues. If necessary, insert one of the following:

"The Regional Director determined that fishing activities conducted under this rule would have no adverse impacts on marine mammals."

"Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EA [DEIS] (see ADDRESSES)."

Note: If the subject marine mammals are threatened or endangered under ESA, see 8. (above).

FINAL RULE

Classification

1. Opening paragraph for a rule implementing an FMP [amendment].

"The Director, ----- Region, NMFS, determined that the FMP [amendment] is necessary for the conservation and management of the _____ fishery and that it is consistent with the Magnuson Act and other applicable laws."

2. APA statement. Any waiver under section 553(d) of the 30-day delayed effectiveness period must include an explanation in the Classification section. The delayed effectiveness may be waived

for "good cause," if the rule relieves a restriction, grants or recognizes an exemption, or if the rule is interpretive or a statement of policy.

3. NEPA statement.

A. If an EIS was prepared, briefly summarize the impacts. Insert the following:

"The Council (or NMFS) prepared a final [supplemental] environmental impact statement for this FMP [amendment]; a notice of availability was published on _____, 19__ (___ FR ____). (Briefly summarize impacts.)"

B. If an EA was prepared, no statement is needed unless there are substantial associated issues. If there are substantial issues, insert the following:

"The Council (or NMFS) prepared an environmental assessment for this FMP [amendment] and the AA concluded that there will be no significant impact on the human environment as a result of this rule. [Briefly summarize impacts.] A copy of the environmental assessment is available from the Council (or NMFS) (see ADDRESSES)."

C. If a categorical exclusion is appropriate, no statement is needed.

4. E.O. 12866 statement. This statement reflects OMB's determination of significance for a final rule, or interim final rule, under the Executive Order.

A. If the final rule is not significant:

"This final rule has been determined to be not significant for purposes of E.O. 12866."

B. If the final rule is significant:

"This final rule has been determined to be significant for purposes of E.O. 12866."

C. If the final rule is exempt from OMB review under E.O. 12866:

"This final rule is exempt from review under E.O. 12866."

5. RFA statement. The requirement to do a regulatory flexibility analysis applies only where notice and comment rulemaking is required by statute (e.g., APA, Magnuson Act 140-day rules). No statement is necessary for interim final rules, final rules for which there was not a proposed rule, or final rules where notice and comment was given but not required by law. Final rules for which a proposed rule was required by law must include one of the following statements:

"The Council (or NMFS) prepared a final regulatory flexibility analysis as part of the regulatory impact review. A copy of this analysis is available from the Council (or NMFS) (see ADDRESSES)."

"The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published (provide Federal Register cite for proposed rule). As a result, a regulatory flexibility analysis was not prepared."

6. PRA statement.

A. A statement is required if the rule contains a collection of information. Insert one of the following:

"This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. This collection-of-information requirement has been submitted to the Office of Management and Budget for approval." (Insert brief summary of requirements and burden.) Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (ATTN: NOAA Desk Officer).

"This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number _____."

B. No statement is required if there is no collection of information.

7. Coastal Zone Consistency statement. There is no requirement for a statement for a final rule; however, determinations should have been sent to affected states. If a state agency did not agree with the determination, this issue must be addressed.

"The Council (or NMFS) determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of [insert names of applicable states with CZM programs]. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. The state agencies agreed with this determination [disagreed with this determination (explain dispute and resolution)]." (Note: if a state agency declined to comment within the statutory time period, consistency is inferred.)"

8. E.O. 12612 statement. There is no requirement for a statement unless there are substantial federalism concerns. If so, insert the following:

"A federalism assessment was prepared that concluded that implementation of the rule is consistent with the principles, criteria, and requirements of E.O. 12612."

9. ESA statement. There is no requirement for a statement, unless there are significant associated issues. If necessary, insert one of the following:

"The Regional Director determined that fishing activities conducted under this rule will not affect endangered or threatened species or critical habitat under the Endangered Species Act."

"An informal consultation under the Endangered Species Act was concluded for [FMP/amendment] on [date]. As a result of the informal consultation, the Regional Director determined that fishing activities conducted under this rule are not likely to affect adversely endangered or threatened species or critical habitat."

"A formal section 7 consultation under the Endangered Species Act was initiated for [FMP/amendment]. In a biological opinion dated [date], the AA determined that fishing activities conducted under [FMP/amendment] and its implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat."

"A formal section 7 consultation under the Endangered Species Act was conducted with the U.S. Fish & Wildlife Service on the effects of [FMP/amendment] on the [species]. The biological opinion issued by the U.S. Fish & Wildlife Service dated [date] states that fishing activities conducted under

[FMP/amendment] and its implementing regulations are not likely to jeopardize the continued existence of [species] or result in the destruction or adverse modification of critical habitat."

10. MMPA statement. There is no requirement for a statement, unless there are significant associated issues. If necessary, insert one of the following:

"The Regional Director has determined that fishing activities conducted under this rule will have no adverse impact on marine mammals."

"Adverse impacts on marine mammals resulting from fishing activities conducted under this rule are discussed in the EA (FEIS) (see ADDRESSES)."

Note: Any adverse impacts should be discussed in the final EA/EIS. If the subject marine mammals are threatened or endangered under ESA, see 9. (above).

EMERGENCY RULE

1. APA statement. If the AA finds "good cause," an emergency rule may be promulgated with an effective date "effective upon filing with the Office of the Federal Register" or upon publication, if the delayed effectiveness period must be waived. Use the following language in the classification section:

"The AA finds [state finding and reason for good cause] constitutes good cause to waive the requirement to provide prior notice and the opportunity for public comment, pursuant to authority set forth at U.S.C. 553(b)(B), as such procedures would be {either [unnecessary], [impracticable], or [contrary to the public interest]}. Similarly, the need to implement these measures in a timely manner to [state reason], constitutes good cause under authority contained in 5 U.S.C. 553(d)(3), to {either [waive the 30-day delay in effective date], [establish an effective date less than 30 days after date of publication], or [make the rule effective immediately upon filing at the Office of the Federal Register]}."

The APA also provides that the delayed effectiveness provision may be waived if the rule is substantive and "relieves a restriction." Use the following language in the classification section:

"Because this is a substantive rule that relieves a restriction, the 30-day delayed effectiveness provision of the Administrative Procedure Act does not apply."

2. CZMA statement. There is no requirement for a statement about coastal zone consistency in an emergency rule; however, determinations must be sent to the affected states.

3. E.O. 12612. There is no requirement for a statement, unless there are substantial federalism concerns.

4. E.O. 12866 statement. The AA makes a statement of determination of significance for an emergency rule under the Executive Order.

A. If the emergency rule is not significant:

"This emergency interim rule has been determined to be not significant for purposes of E.O. 12866."

B. If the emergency rule is significant:

"This emergency interim rule has been determined to be significant for purposes of E.O. 12866."

5. NEPA statement.

A. If an EIS was prepared, briefly summarize the impacts:

"The Council (or NMFS) prepared a final [supplemental] environmental impact statement for this emergency rule; a notice of availability was published on [insert date and FR citation]."

B. If an EA was prepared, reference in the classification section is needed only if there is an issue.

6. RFA statement. The following language should be used in the classification section:

"This emergency interim rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comment."

7. PRA statement. Most emergency rules will not involve an information collection requirement. Therefore, the PRA would not apply and a statement is not required.

If the emergency rule contains a collection-of-information request, use one of the following in the classification section:

"This emergency interim rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. This collection-of-information requirement has been submitted to the Office of Management and Budget for approval. (Insert summary of requirements and burden.) Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington DC 20503 (ATTN: NOAA Desk Officer).

"This emergency interim rule contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Number _____."

8. ESA statement.

There is no requirement for a statement, unless there are significant associated issues. If necessary, insert one of the following in the classification section:

"The Regional Director determined that fishing activities conducted under this emergency interim rule will not affect endangered or threatened species or critical habitat under the Endangered Species Act."

"An informal consultation under the Endangered Species Act was concluded for an emergency interim rule under [FMP] on [date]. As a result of the informal consultation, the Regional Director determined that fishing activities conducted under this rule are not likely to affect adversely endangered or threatened species or critical habitat."

"A formal section 7 consultation under the Endangered Species Act was initiated for an emergency interim rule under [FMP]. In a biological opinion dated [date], the AA determined that fishing activities conducted under the emergency interim rule are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of critical habitat."

9. MMPA statement.

There is no requirement for a statement, unless there significant issues. If necessary, insert one of the following in the classification:

"The Regional Director has determined that fishing activities conducted under this emergency interim rule will have no adverse impact on marine mammals."

"Adverse impacts on marine mammals resulting from fishing activities conducted under this emergency interim rule are discussed in the EA [FEIS] (see ADDRESSES)."

Note: Any adverse impact should be discussed in the final EA/EIS. If the subject marine mammals are threatened or endangered under ESA, see 8. (above).

AUTOMATIC INSEASON REGULATORY CHANGES

Classification

1. Opening paragraph.

"This action is required by 50 CFR _____ and is exempt from review under E.O. 12866."

2. Other statements. NEPA, RFA, PRA, CZMA, etc., statements are not required, unless there are significant associated issues.

NON-AUTOMATIC INSEASON REGULATORY CHANGES

Classification

1. Opening paragraph. For an "open" framework measure that normally involves consultation with a Council and invites public comment on the action, either prior to or subsequent to the final action.

"This action is authorized by 50 CFR _____ and is exempt from review under E.O. 12866."

2. Other statements.

A. Regulatory Flexibility Act. A statement regarding the Regulatory Flexibility Act applies only where a proposed rule is required. If applicable, see examples under Proposed Rule 4. or Final Rule 5.

B. Other applicable laws (e.g., NEPA, CZMA, ESA, MMPA) must be considered on a case-by-case basis where there are significant associated issues.

14. Suggested mode of transmission of memoranda and regulations

SUGGESTED MODE OF TRANSMISSION OF MEMORANDA AND REGULATIONS

Decision Memoranda

FMP/Amendments - proposed and final rules
Regulatory amendments - proposed and final rules
Annual specifications - preliminary and initial specifications
Drafts prepared in Region and mailed, faxed, or cc:Mailed to F, copied to F/CM2. Final prepared and signed in Region, cc:Mail to F/CM2 plan reviewer, overnight mail the original.

Attorney Work Product

Prepared and signed in Region, include in overnight mail with Regional Director's Decision Memorandum, except for inseason actions that are sent by fax to F/CM2 and mailed to F/CM. The regulatory checklist required by E.O. 12778 is prepared by the Regional Attorney and signed by GCF.

Regulations, Specifications, and Inseason Actions

Proposed and final rules
Preliminary and initial specifications

Send to F/CM2 plan reviewer by cc:Mail. Advance/draft regulations may be sent per agreement of regional and headquarters reviewers. If a rule contains a request for collection of information under the Paperwork Reduction Act, the estimated burden hours and justification must be submitted with the proposed rule or in advance, if possible.

Inseason actions

Send to F/CM2 plan reviewer by cc:Mail and fax. Inseason actions may be prepared in advance and sent per agreement of regional and headquarters reviewers, with effective date inserted when provided by the regional reviewer.

Environmental Assessment

An Environmental Assessment prepared in the region (e.g., for an emergency action) is sent by cc:Mail to the F/CM2 reviewer, and the original is mailed with the decision memo. The transmittal documents (Schmitt to Wieting, Wieting to public) are drafted by the Region for Environmental Assessments, except they may be prepared by F/CM2 by prior agreement.

Environmental Assessment prepared by a Council (e.g., for an FMP/amendment) is sent to F/CM2 reviewer as a part of the distribution for Secretarial review. Please cc:Mail the environmental assessment to the F/CM2 reviewer in WP 5.1 so changes may be made as necessary. The transmittal documents are printed in final on letterhead stationery by F/CM2.

Draft/Final (Supplemental) Environmental Impact Statement

If the proposed NEPA document is a DEIS or DSEIS, contact the F/CM2 reviewer for guidance, prior to submission. Such a NEPA document must be reviewed by the Region and determined jointly by the Region and Headquarters to be acceptable for public distribution as a NMFS product.

Note that a FEIS/FSEIS for an FMP/amendment is to be filed with the Environmental Protection Agency by Day 54.

The F/CM2 reviewer will prepare the transmittal from Wieting for filing a NEPA document with the Environmental Protection Agency and process the clearance and filing of the documents.

Transmittal of Documents to F/CM2

The rules and information/decision memos (e.g., Schmitten to Levitt, Schmitten to Hall) are prepared by the regional reviewer and sent by cc:Mail to the F/CM2 reviewer. The memos will be printed in final on letterhead stationery by F/CM2.

Transmittal of Rules to SBA Regarding Regulatory Flexibility Act

Certification of non-significance

The memo (i.e., Levitt to Glover) is prepared by the regional reviewer and sent to the F/CM2 reviewer by cc:Mail. The memo will be printed in final on letterhead stationery in F/CM2.

Significant rule

The memo (i.e., Schaefer to Glover) is drafted by the regional reviewer and sent to the F/CM2 reviewer. The memo will be printed in final on letterhead stationery in F/CM2.

Communication on Regulatory Actions

The Assistant Administrator for Fisheries reserves the authority to concur in the Regional Director's approval, disapproval, or partial disapproval of an FMP/Amendment. If the Assistant Administrator does not concur, the Regional Director's authority may be rescinded for a specific action. To minimize the occurrence of such a situation, the Regional Director is required to send the Assistant Administrator a draft decision memo regarding issues and concerns about a pending action. The draft decision memo should be copied to F/CM. The Assistant Administrator will determine when it is appropriate to communicate this information to NOAA officials. The Assistant Secretary for Oceans and Atmosphere requests that he be informed of pending rules, especially of a controversial or major policy nature, prior to requests for DOC clearance.